

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

THE GENERAL HOSPITAL
CORPORATION and
DANA-FARBER CANCER
INSTITUTE, INC.,

Plaintiffs,

v.

ESOTERIX GENETIC
LABORATORIES, LLC and
LABORATORY CORPORATION
OF AMERICA HOLDINGS,

Defendants.

C.A. No. 1:18-cv-11360-IT

JOINT STATEMENT AND PROPOSED CASE SCHEDULE

Pursuant to the Court’s June 28, 2022 Notice of Scheduling Conference, Rules 16 and 26 of the Federal Rules of Civil Procedure and Rule 16.1(d) of the Local Rules for the United States District Court for the District of Massachusetts, the plaintiffs The General Hospital Corporation (“MGH”) and Dana-Farber Cancer Institute, Inc. (“DFCI”) and the defendants Esoterix Genetic Laboratories, LLC (“Esoterix”) and Laboratory Corporation of America Holdings (“Labcorp”) submit this Joint Statement and Proposed Case Schedule for the Court’s consideration for the July 22, 2022, Conference in this matter.

The Plaintiffs initially asserted seven causes of action against EGL and/or Labcorp: breach of contract, breach of the implied covenant of good faith and fair dealing, violation of M.G.L. Chapter 93A, accounting/injunctive relief, reformation of contract-mistake, piercing the corporate veil, and unjust enrichment. After several rounds of motion practice, and an appeal to the First Circuit, only the reformation of contract claim based on unilateral mistake remains for

this Court's determination. Given that Labcorp is not a party to the contract that MGH and DFCI seek to reform, Labcorp and Esoterix have proposed that the parties stipulate to the dismissal of Labcorp from this action. MGH and DFCI have not yet responded substantively to that proposal.

The Parties have already engaged in document discovery and a substantial amount of written discovery. Therefore, the Parties submit that the only issues to discuss at the July 22, 2022 scheduling conference are Labcorp and Esoterix's proposal to stipulate to the dismissal of Labcorp, as well as the below discovery plan and proposed scheduling order.

[PROPOSED] SCHEDULING ORDER

Discovery Limitations:

The Parties propose limiting the number of depositions to three per side.

Fact Discovery:

The Parties propose the following schedule for the remaining fact discovery in this matter:

1. Any supplemental interrogatories or requests for admission must be served by August 15, 2022.
2. All fact depositions must be completed by November 22, 2022.
3. A status conference will be held on _____ at ____ a.m./p.m.

Expert Discovery:

At this time, the Parties do not anticipate that experts will be required in this case.

Dispositive Motions:

1. Dispositive motions, such as motions for summary judgment or partial summary judgment and motions for judgment on the pleadings, must be filed by December 22, 2022.

2. Oppositions to dispositive motions shall be filed by January 23, 2023.
3. Replies in further support of dispositive motions shall be filed by February 16, 2023.

Magistrate Judge:

The parties do not consent at this time to the reassignment of the case to a Magistrate Judge for all purposes.

Local Rule 16.1(d)(3) Certifications:

The parties have already filed and served the certifications required by Local Rule 16.1(d)(3). (Dkt. 49, 50, 52.)

Pending Motions:

There are no motions pending.

Dated: July 15, 2022

Respectfully submitted,

Plaintiffs,
THE GENERAL HOSPITAL
CORPORATION and
DANA-FARBER CANCER
INSTITUTE, INC.
By their attorneys,

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